

Appl No. 10/802,381
Reply to Office Action of March 4, 2005

Remarks

Introduction

The above-identified application has been carefully reviewed in light of the Office Action mailed March 4, 2005, which included a final rejection of the pending claims. This Amendment is being submitted within TWO MONTHS of the mailing date of the Final Office Action. Applicant submits that the amendments and remarks included herein show the present claims to be allowable and do not raise new issues. Therefore, applicant respectfully requests that this amendment be entered.

Claims 1-20 and 22-30 were pending. By way of this response, claims 5, 8, 9, 11, 12, 15, 24, and 30 have been amended, and claims 7, 23, and 25 has been cancelled without prejudice. Support for the amendments to the claims can be found in the application as originally filed, and no new matter has been added. Accordingly, claims 1-6, 8-20, 22, 24, and 26-30 are currently pending.

Applicant acknowledges and thanks the Examiner for the indication that the amendments to the claims submitted on January 18, 2005 were sufficient to overcome the rejections over the prior art. The only outstanding rejections are under 35 U.S.C. §§ 251 and 112, first paragraph. Applicant addresses those rejections herein.

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Status of the Claims & Support for Amendments

Claims 1-6, 8-20, 22, 24, and 26-30 are pending. Claims 7, 23, and 25 have been cancelled. By way of this response, claims 5, 8, 9, 11, 12, 15, 24, and 30 have been amended.

Claim 5 has been amended by replacing "intramuscular administering" with "--injecting--", by replacing "a region in proximity to each of the corners of a mouth" with "--depressor anguli oris (DAO) muscles--", and by deleting "to cause paralysis of a depressor anguli oris (DAO) muscle". Support for the amendments to claim 5 can be found at least at column 2, lines 30, 46, and 49.

Claim 7 has been cancelled.

Claim 8 has been amended by replacing "administered" with "-injected--". Support for the amendment to claim 8 can be found at least at column 2, lines 30, 46, and 49.

Claim 9 has been amended by replacing "administration" with "--injection--". Support for the amendment to claim 9 can be found at least at column 2, lines 30, 46, and 49.

Claim 11 has been amended by deleting "wherein the botulinum toxin is injected into the DAO muscle, and". Support for the amendments to claim 11 can be found at column 4, lines 1-11.

Claim 12 has been amended by replacing "administering" with "--injecting--" and by deleting "to the patient, wherein the

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Botulinum toxin is injected into the DAO muscle". Support for the amendments to claim 12 can be found at least at column 2, lines 30, 46, and 49.

Claim 15 has been amended by replacing "a" with --each-- in reference to the depressor anguli oris muscle. Support for the amendments to claim 15 can be found at column 2, line 46.

Claim 21 remains cancelled.

Claim 23 has been cancelled.

Claim 24 has been amended by replacing "administering" with --injecting--. Support for the amendment to claim 24 can be found at least at column 2, lines 30, 46, and 49.

Claim 25 has been cancelled.

Claim 30 has been amended by inserting --on the order of 4 units of--. Support for the amendments to claim 30 can be found at column 4, line 10.

Item 2

The Office Action indicates that the requirement to surrender the original patent is withdrawn.

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Item 3

Applicant acknowledges its obligation to timely apprise the USPTO of any prior or concurrent proceeding in which the original patent (U.S. Patent No. 6,358,917) is or was involved.

Applicant resubmits that the Office Action refers to U.S. Patent No. 5,583,114 (Barrows et al., and entitled Adhesive Sealant Composition). Applicant assumes this was an error, and requests confirmation of same.

Items 4-5 - Rejections Under 35 U.S.C. §§ 251 and 112, first paragraph

Claims 1-20 and 22-30 remain rejected under 35 U.S.C. § 251 as allegedly containing new matter. In particular, claims 5, 6, 8-10, 13, 14, 23, and 24 have been rejected because the claims do not specifically require injection of botulinum toxin. Claims 5-11, 13, and 14 have been rejected because the claims do not require that the botulinum toxin be injected into the depressor anguli oris (DAO) muscle. Claims 15-20 and 22-26 have been rejected because they do not require that the botulinum toxin be injected into both DAO muscles. Claim 30 has been rejected because the claim does not limit the amounts of botulinum toxin to be injected.

Claims 5-11, 13-20, 22-24, 26, and 30 remain rejected under 35 U.S.C. § 112, first paragraph for lacking a written description for the subject matter identified above regarding the rejections under 35 U.S.C. § 251.

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Applicant does not concede with the rejections or the remarks made in the Office Action. However, to advance the prosecution of the above-identified application, the claims have been amended as set forth above.

Applicant submits that claims 5, 6, 8-10, 13, 14, 23, and 24 as presently amended recite that the botulinum toxin is injected. Claims 5-11, 13, and 14 as amended recite that the botulinum toxins is injected into the DAO muscle. Claims 15-20, 22, and 26 as presently amended recite that the botulinum toxin is injected into each DAO muscle (e.g., the botulinum toxin is administered bilaterally). Claim 30 as presently amended recites the amounts of botulinum toxin to be injected.

In view of the above, applicant submits that the rejections of the present claims, that is claims 1-6, 8-20, 22, 24, and 26-30, under 35 U.S.C. § 251 and § 112, first paragraph have been overcome, and applicant respectfully requests that such rejections be withdrawn.

Items 6 - Supplemental Oath/Declaration

Applicant submits that a supplemental reissue declaration will be submitted, as necessary, upon receiving an indication that the claims are otherwise in condition for allowance.

Conclusion

In conclusion, applicant has shown that the present claims satisfy the requirements of 35 U.S.C. §§ 251 and 112. Therefore, applicant submits that the present claims, that is

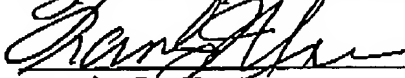
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claims 1-6, 8-20, 22, 24, and 26-30 are allowable. Therefore, applicant respectfully requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Date: _____

5/4/05

Respectfully submitted,



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